

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARY LEIGHTON,

Plaintiff,

v.

DOREL JUVENILE GROUP, INC., a  
Massachusetts corporation,

Defendant.

CASE NO. C09-5798BHS

MINUTE ORDER

NOW, on this 2<sup>nd</sup> day of March, 2011, the Court directs the Clerk to enter the following Minute Order:

During the parties' pretrial conference the Court reserved ruling on the matter of Plaintiff's liability experts. This order supplements the pretrial conference record, and the Court rules as follows:

1. Plaintiff substantially complied with Fed. R. Civ. P. 26 by providing a report of Richard Allyn (mechanical engineer), though the report was unsigned and not facially identifiable as the product of Mr. Allyn. Mr. Allyn has been known to the Defendant as one of Plaintiff's liability experts for months before trial. Moreover, Defendant has not been substantially prejudiced.
2. Plaintiff was reasonably diligent in complying with the rule once it became clear that Mr. Allyn would no longer be available for trial due to medical reasons. To remedy this matter, Plaintiff identified Mr. Leonard as Mr.

Allyn's associate who would serve as Mr. Allyn's replacement. Mr. Leonard is familiar with and endorses Mr. Allyn's report.

3. With respect to the disclosure of Charles Howard, Plaintiff has not substantially complied with Fed R. Civ. P. 26. The Court finds that Defendant has established that it would be substantially prejudiced by Plaintiff's failure to comply if Mr. Howard were permitted to testify. Therefore, Mr. Howard will not be permitted to testify as a witness.
4. Plaintiff will make Mr. Leonard available for a telephone interview and/or deposition. The cost (including attorneys fees, court reporter fees, and witness fees) of the deposition, if taken, shall be at Plaintiff's expense.
5. If, after the deposition, Defendant can establish that it has been hindered in its ability to prepare for trial in the time scheduled, it may then move the Court for a continuance of the trial date.

The foregoing Minute Order was authorized by the Honorable BENJAMIN H. SETTLE, United States District Judge.

/s/ Trish Graham  
Trish Graham  
Judicial Assistant